

FILED IN OPEN COURT

5/16/14

CLERK, U. S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 3:12-cr-112-J-34JRK

KATHRYN COHEN ALLEN

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by A. Lee Bentley, III, United States Attorney for the Middle District of Florida, and the defendant, KATHRYN COHEN ALLEN, and the attorney for the defendant, Noel Lawrence, Esq., mutually agree as follows:

A. Particularized Terms

1. Count(s) Pleading To

The defendant shall enter a plea of guilty to Counts One and Two of the Indictment. Counts One and Two charge the defendant with mailing a hoax anthrax letter, in violation of 18 U.S.C. § 1038(a)(1).

2. Maximum Penalties

Counts One and Two carry a maximum sentence of 5 years imprisonment, a fine of \$250,000, a term of supervised release of not more than 3 years, and a special assessment of \$100 per felony count for individuals, and \$400 per felony count for persons other than individuals, such as corporations. With respect to certain offenses, the Court shall order the defendant to make

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restitution to any victim of the offense(s), and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

The total potential cumulative sentence is a minimum/maximum of 10 yrs imprisonment, a fine of \$500,000, or both imprisonment and fine, a term of supervised release of 3 years, and a special assessment of \$200. A violation of the terms and conditions of supervised release could result in another term of imprisonment of up to 4 years to be followed by an additional term of supervised release.

3. Elements of the Offense(s)

The defendant acknowledges understanding the nature and elements of the offense(s) with which defendant has been charged and to which defendant is pleading guilty. The elements of Counts One and Two are:

- First: The Defendant engaged in conduct, or did aid and abet conduct, with the intent to convey false or misleading information;
- Second: The Defendant conveyed information under circumstances in which such information may reasonably have been believed; and
- Third: The information indicated that an activity has taken, is taking, or will take place that would violate Title 18, United States Code, ~~Section~~ 10; that is, the possession or transfer of a biological agent or toxin for use as a weapon.

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4. Counts Dismissed

At the time of sentencing, the remaining count(s) against the defendant, Counts Three, Four, Five, Six, Seven, Eight, and Nine, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial

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affidavit referenced in Paragraph B.4., the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

7. Cooperation - Substantial Assistance to be Considered

Defendant agrees to cooperate fully with the United States in the investigation and prosecution of other persons, and to testify, subject to a prosecution for perjury or making a false statement, fully and truthfully before any federal court proceeding or federal grand jury in connection with the charges in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents, and other objects in defendant's possession or control, and to be reasonably available for interviews which the United States may require. If the cooperation is completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion at the time of sentencing recommending (1) a downward departure from the applicable guideline range pursuant to USSG §5K1.1, or (2) the imposition of a sentence

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below a statutory minimum, if any, pursuant to 18 U.S.C. § 3553(e), or (3) both. If the cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion for a reduction of sentence within one year of the imposition of sentence pursuant to Fed. R. Crim. P. 35(b). In any case, the defendant understands that the determination as to whether "substantial assistance" has been provided or what type of motion related thereto will be filed, if any, rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

8. Cooperation - Responsibilities of Parties

a. The government will make known to the Court and other relevant authorities the nature and extent of defendant's cooperation and any other mitigating circumstances indicative of the defendant's rehabilitative intent by assuming the fundamental civic duty of reporting crime. However, the defendant understands that the government can make no representation that the Court will impose a lesser sentence solely on account of, or in consideration of, such cooperation.

b. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements, or information pursuant to this

agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and unreservedly disclose and provide full, complete, truthful, and honest knowledge, information, and cooperation regarding any of the matters noted herein, the following conditions shall apply:

(1) The defendant may be prosecuted for any perjury or false declarations, if any, committed while testifying pursuant to this agreement, or for obstruction of justice.

(2) The United States may prosecute the defendant for the charges which are to be dismissed pursuant to this agreement, if any, and may either seek reinstatement of or refile such charges and prosecute the defendant thereon in the event such charges have been dismissed pursuant to this agreement. With regard to such charges, if any, which have been dismissed, the defendant, being fully aware of the nature of all such charges now pending in the instant case, and being further aware of defendant's rights, as to all felony charges pending in such cases (those offenses punishable by imprisonment for a term of over one year), to not be held to answer to said felony charges unless on a presentment or indictment of a grand jury, and further being aware that all such felony charges in the instant case have heretofore properly been returned by the indictment of a grand jury, does hereby agree to reinstatement of such charges by rescission of any order dismissing them or, alternatively, does hereby waive, in open court, prosecution by indictment and consents that the United States may proceed by information instead of by indictment with regard to any felony charges

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which may be dismissed in the instant case, pursuant to this plea agreement, and the defendant further agrees to waive the statute of limitations and any speedy trial claims on such charges.

(3) The United States may prosecute the defendant for any offenses set forth herein, if any, the prosecution of which in accordance with this agreement, the United States agrees to forego, and the defendant agrees to waive the statute of limitations and any speedy trial claims as to any such offenses.

(4) The government may use against the defendant the defendant's own admissions and statements and the information and books, papers, documents, and objects that the defendant has furnished in the course of the defendant's cooperation with the government.

(5) The defendant will not be permitted to withdraw the guilty pleas to those counts to which defendant hereby agrees to plead in the instant case but, in that event, defendant will be entitled to the sentencing limitations, if any, set forth in this plea agreement, with regard to those counts to which the defendant has pled; or in the alternative, at the option of the United States, the United States may move the Court to declare this entire plea agreement null and void.

(6) The defendant shall undergo a polygraph evaluation at the discretion of the United States.

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B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (18 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special assessment is due on the date of sentencing. The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense(s) to which the defendant is pleading provide(s) for imposition of a term of supervised release

upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit

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reflecting the defendant's financial condition. The defendant promises that her financial statement and disclosures will be complete, accurate and truthful and will include all assets in which she has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report

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prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence

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violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is

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pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty.

The defendant certifies that defendant does hereby admit that the facts set forth

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in the attached "Factual Basis," which is incorporated herein by reference, are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

12. Entire Agreement

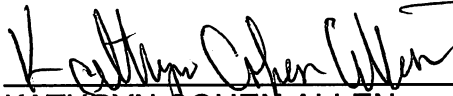
This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.


DATED this 16~~th~~ day of May, 2014.

A. LEE BENTLEY, III
United States Attorney


KATHRYN COHEN ALLEN
Defendant


JAY TAYLOR
Assistant United States Attorney


NOEL G. LAWRENCE
Attorney for Defendant


JULIE HACKENBERRY
Assistant United States Attorney
Chief, Jacksonville Division

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 3:12-cr-112-J-34JRK

KATHRYN COHEN ALLEN

PERSONALIZATION OF ELEMENTS

1. On or between June 24, 2011, through on or about June 28, 2011, in the Middle District of Florida, did you engage in conduct, or did you aid and abet conduct, with the intent to convey false or misleading information?
2. Did you knowingly convey information under circumstances in which such information may reasonably have been believed?
3. During that time period did you mail threatening letters, or aid and abet the mailing of threatening letters, containing a white powdery substance to Marco Rubio (Count One), Bill Nelson (Count Two)?
4. Did you do so under circumstances, and with the intent, so that each of the recipients would believe they had been exposed to a biological agent or toxin?

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 3:12-cr-112-J-34JRK

KATHRYN COHEN ALLEN

FACTUAL BASIS

Nine letters containing white powder were postmarked in Jasper, Hamilton County, Florida, on June 25, 2011. Six of the letters were delivered between June 25th and June 28th, 2011, to various state and federal government recipients, including one letter each to the repective offices of the United States Senators Bill Nelson and Marco Rubio.

Each of the letters bore a return address of either:

C.B.

Jasper, Florida 32052
or

M.C.

Jennings, FI 32053

In February 2011, C.B. began to be harassed by someone unknown to him. The harassment began with a note being super glued to his truck. The note accused Mr. B. of sleeping with a married white woman and threatened harm to him and his son.

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The harassment continued with additional letters, group text messages sent to a variety of people in and around Jasper (accusing Mr. B. of sleeping with a white woman), and hang up phone calls. Mr. B. was frequently stopped on the street by people he knew inquiring about the text messages they received. Additionally, various businesses in and around Jasper received similar letters. The letters contained details stating when and who was visiting Mr. B. at his home, what kind of car the female visitor was driving, what she was wearing, and when she arrived and left. According to Mr. B., this information was always accurate, as if someone were watching his house. He states the hang up phone calls would start the minute he walked into his house. If he stepped outside, they would stop, only to start again when he went back inside.

Members of the Jasper community also received fraudulent invitations to a baby shower for Mr. B's and M.C.'s non-existent newborn. M.C.'s children were sent letters at their school telling them their mother shouldn't be dating black men. A letter, along with a girl's doll, was sent to the Department of Child and Family services advising that Mr. B. is a child molester. A condolence letter was sent to M.C. and her husband for the death of their children (the children were alive and well).

Both C.B. and M.C. reported the harassing phone calls, threatening letters and other matters to the HCSO which was unable to identify any viable suspects.

At the times alleged in the Indictment, the defendant lived across the street from C.B. with her husband.

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During 2011, the defendant and her husband won some money with a scratch off lottery ticket. They bought a new computer and a television with the winnings. The defendant let the FBI image her computer. The imaging revealed that a Facebook page (the Amber Smith Facebook Page (ASFP)) was created on Allen's new computer. The ASFP befriended many citizens in Jasper and spoke ill of C.B. and M.C. Much of it was the same or similar accusations that were spread through letters and text messages. Witnesses eventually identified the telephone number being used to send the harassing text messages as a telephone number used by Allen. Amber Smith is a fictitious white female.

Forensic analysts from the Florida Department of Law Enforcement (FDLE), examined and compared the handwriting on the nine hoax anthrax letters and envelopes to the known writing of the defendant. FDLE will testify that the writing on all the letters belongs to Allen. Allen's fingerprint has also been identified on a related letter; and it is her DNA on a doll sent to the Department of Child and Family Services with a letter accusing Mr. B. of child molestation.

On June 27, 2011 a staff assistant to Senator Bill Nelson opened an envelope addressed by hand to "Bill Nelson" at his Jacksonville office. After opening the letter, white powder fell out onto her hands and lap. She reported the incident immediately to Senator Nelson's Chief of Staff who ordered the office vacated and reported the incident to local and federal authorities. The chief advised that the Jacksonville office is a satellite office but that Nelson was due in

Jacksonville on the day the letter was received. The letter threatened Senator Nelson's life.

The envelope had C.B.'s home address as a return address. FDLE has conclusively identified this handwriting as the handwriting of Allen.

On June 28, 2011, a staff assistant to Senator Marco Rubio received a piece of mail and noticed that it seemed to have something besides a letter in it. Rubio's office had been notified the day before of a letter delivered to Senator Nelson's office. The police were notified and the letter was turned over to the authorities. It contained a white powder similar to that found in the Nelson letter. The letter threatened Senator Rubio's life.

FDLE has conclusively identified this handwriting as the handwriting of Allen.